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**FISCAL IMPACT STATEMENT**

**LS 6233**

**BILL NUMBER:** SB 236

**NOTE PREPARED:** Jan 23, 2014

**BILL AMENDED:** Jan 15, 2014

**SUBJECT:** Criminal Law Provisions of IC 7.1.

**FIRST AUTHOR:** Sen. Young R Michael

**FIRST SPONSOR:** Rep. Steuerwald

**BILL STATUS:** As Passed Senate

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☐ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill revises numerous provisions of IC 7.1 that deal with criminal liability. It removes the requirement that the driver's license of a minor shall be suspended if the minor commits certain offenses related to the unlawful purchase, use, or consumption of an alcoholic beverage if the offenses do not involve the use of a motor vehicle, and makes certain juvenile offenses infractions.

(The introduced version of this bill was prepared by the Criminal Law and Sentencing Policy Study Committee.)

**Effective Date:** July 1, 2014.

**Explanation of State Expenditures:** *Summary-* Under current law, the general penalty for violating a provision of IC 7.1 is a Class B misdemeanor when no other penalty is provided (IC 7.1-5-1-8). This bill repeals this general penalty provision and replaces it with either increased penalties for certain violations, adding the element of requiring that the person who violated the section of law to have done so "knowingly and intentionally," or specifying that the current penalty of a Class B misdemeanor remains unchanged for certain sections of IC 7.1. The provisions increasing a penalty to a Level 6 felony could potentially increase state expenditures if they increase the number of individuals incarcerated in state prisons. However, because the expected number of violations is relatively low, the total increase in expenditures is not expected to be significant.

The provisions of the bill that remove the requirement that a minor's driver's license be suspended for certain offenses could reduce the number of driver's license suspensions issued by the Bureau of Motor Vehicles (BMV). However, any administrative cost savings to the BMV are expected to be minimal.

Additional Information-

*Class B Misdemeanor Increased to Level 6 Felony* - The two provisions of this bill that increase the penalty to a Level 6 felony would likely have minimal impact on state expenditures due to the small number of violations. State expenditures could increase if an offender is incarcerated in a state prison rather than in a local jail. However, any expenditure increase is likely to be small. A Level 6 felony is punishable by a prison term ranging between 6 months and 30 months or reduction to a Class A misdemeanor. The period of incarceration will depend upon mitigating and aggravating circumstances. If offenders can be housed in existing facilities with no additional staff, the marginal cost per offender for medical care, food, and clothing is approximately \$3,266 annually, or \$8.95 daily.

The following table lists changes to IC 7.1 that increase the penalty from a Class B misdemeanor to a Level 6 felony. The table reports the number of offenses that were filed in the trial courts and city and town courts that provided data to the Indiana Supreme Court in CY 2011 through CY 2013.

Section	Proposed Changes	Number of Violations
IC 7.1-5-5-2 Receiving gifts prohibited	Level 6 felony for knowingly or intentionally violating this section. [Currently a Class B misdemeanor]	0
IC 7.1-5-6-4 Falsification of records prohibited	Level 6 felony for knowingly or intentionally violating this section. [Currently a Class B misdemeanor]	1

*Class B Misdemeanor Increased to Class A Misdemeanor* - Several of the bill's provisions increase the penalty to a Class A misdemeanor or a Level 6 felony, depending on the severity of the offense. An increase from a Class B misdemeanor to a Class A misdemeanor would not affect state expenditures. The following table lists the changes to IC 7.1 that would increase the penalty from a Class B misdemeanor to a Class A misdemeanor if the amount of the tax, permit, license fee, or value accepted is less than \$750. If the amount is at least \$750, the penalty is increased to a Level 6 felony.

Section	Proposed Changes	Number of Violations
7.1-5-4-5 Possession of counterfeit permits prohibited	Class A misdemeanor for knowingly or intentionally violating subsection (a) or (b). The offense is a Level 6 felony if the cost of the permit is at least \$750. [Currently a Class B misdemeanor]	1
IC 7.1-5-4-6 Defrauding the state of a tax or license fee	Class A misdemeanor for knowingly or intentionally violating this section. The offense is a Level 6 felony if the tax or license fee is at least \$750. [Currently a Level 6 felony]	1
IC 7.1-5-5-10 Acceptance of gifts by retailers prohibited	Class A misdemeanor for knowingly or intentionally violating this section. The offense is a Level 6 felony if the value of the gift is at least \$750. [Currently a Class B misdemeanor]	0
IC 7.1-5-5-11 Gift to retail permittee prohibited	Class A misdemeanor for knowingly or intentionally violating this section. The offense is a Level 6 felony if the value given is at least \$750. [Currently a Class B misdemeanor]	0
IC 7.1-5-5-12 Amateur athletics: soliciting assistance prohibited	Class A misdemeanor for knowingly or intentionally violating this section. The offense is a Level 6 felony if the assistance is at least \$750. [Currently a Class B misdemeanor]	0
IC 7.1-5-11-6 Devious transportation prohibited	Class A misdemeanor for violating this section. The offense is a Level 6 felony if the amount of tax is at least \$750. [Currently a Class B misdemeanor]	0

*Class B Misdemeanor Reduced to Class C Misdemeanor* - The penalty for purchasing beer from an unbonded brewery (IC 7.1-5-8-9) would be decreased from a Class B misdemeanor to a Class C misdemeanor. This provision would not significantly affect state expenditures. Since CY 2011, no cases have been filed in trial, city, or town courts for this offense.

*Juvenile Offenses* - The table below reports the number of offenses by minors that require the BMV to suspend the minor's driver's license under current law. These offenses were filed in the trial courts and city and town courts that provided data to the Indiana Supreme Court in CY 2011 through CY 2013. The total number of offenses in this two-year period was about 12,900. The number of offenses involving the use of a motor vehicle is indeterminable. However, minimal administrative costs are associated with suspending a driver's license, and the BMV does not charge a fee for reinstating a license.

Section	Number of Violations
IC 7.1-5-7-1 False statements of age to procure alcoholic beverages	125
IC 7.1-5-7-7 Illegal possession, consumption, or transport of an alcoholic beverage by a minor	12,578
IC 7.1-5-7-10 Minor in a tavern or bar	166

**Explanation of State Revenues: Summary-** To the extent that criminal fines increase due to increasing certain penalties to either a Class A misdemeanor or a Level 6 felony, revenue to the Common School Fund could increase. However, the increase in revenue is estimated to be small due to the relatively low number of expected violations.

(Revised) *Juvenile Offenses* - The bill reduces the penalty from a Class C misdemeanor to a Class C infraction if a minor uses false identification to purchase alcohol or is unlawfully present in a bar. This provision could reduce revenue to the Common School Fund (from fines), increase revenue to the General Fund (from infraction judgments), and reduce revenue from court fees. (See *Explanation of State Expenditures* for the number of violations of IC 7.1-5-7-1 and IC 7.1-5-7-10 in CY 2011 through CY 2013.)

**Additional Information-**

*Class B Misdemeanor to Level 6 Felony* - More revenue to the Common School Fund could be collected if a larger criminal fine is assessed by the sentencing court. However, any increase in revenue is likely to be small due to the low number of violations. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Level 6 felony is \$10,000. Court fees for both misdemeanors and felonies are the same.

*Class B Misdemeanor Increased to Class A Misdemeanor* - Revenue to the Common School Fund may increase if a person is sentenced for a Class A misdemeanor rather than for a Class B misdemeanor. The maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue is likely to be small due to the low number of violations. Court fees would remain unchanged.

*Class B Misdemeanor Reduced to Class C Misdemeanor* - Revenue to the Common School Fund could be reduced if a person is sentenced for a Class C misdemeanor rather than for a Class B misdemeanor. Currently, the maximum fine for a Class B misdemeanor is \$1,000, while the maximum fine for a Class C misdemeanor is \$500. However, any revenue reduction is likely to be small. Court fees would remain unchanged.

(Revised) *Juvenile Offenses* - Revenue to the Common School Fund may be reduced if an infraction judgment rather than a fine is assessed, but revenue to the state General Fund may increase. (Fines are deposited in the Common School Fund, while infraction judgments are deposited in the state General Fund.) Currently, the maximum judgment for a Class C misdemeanor is \$500. Under this bill, an offender could pay an infraction judgment of \$500. Revenue from court fees may also be reduced. The court fee for a misdemeanor is \$120, while the criminal costs fee for an infraction is \$70. The state receives 70% of the court fee that is assessed when a guilty verdict is entered and the fee is collected in a court of record and 55% if a case is filed in a city or town court.

**Explanation of Local Expenditures: Summary-** To the extent that the provisions of this bill reduce the number of offenders sentenced to county jails or reduce the length of sentences in county jails, costs to the counties may decrease. However, total cost savings are estimated to be small due to the relatively low number of offenders that would be affected by this bill.

**Additional Information-**

*Class B Misdemeanor to Level 6 Felony* - If an offender is sentenced to state prison rather than to a county jail, the costs to the county may be reduced. However, the total cost reduction is likely to be small. The maximum term of imprisonment for a Class B misdemeanor is up to 180 days. The average daily cost to incarcerate a prisoner in a county jail is roughly \$44.

*Class B Misdemeanor Increased to Class A Misdemeanor* - The maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class A misdemeanor is up to one year. However, any additional costs to local governments are likely to be small.

*Class B Misdemeanor Reduced to Class C Misdemeanor* - The maximum term of imprisonment for a Class B misdemeanor is up to 180 days, while the maximum term for a Class C misdemeanor is up to 60 days. However, any reduction in costs to local governments is likely to be small.

*(Revised) Juvenile Offenses* - Costs to local governments might be reduced since no term of imprisonment is imposed for an infraction. A Class C misdemeanor is punishable by up to 60 days in jail. The average daily cost of housing a prisoner in jail is roughly \$44.

**Explanation of Local Revenues:** Court fees for both misdemeanors and felonies are \$120.

*(Revised) Juvenile Offenses* - The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund.

**State Agencies Affected:** Department of Correction; Bureau of Motor Vehicles.

**Local Agencies Affected:** Trial courts; local law enforcement agencies.

**Information Sources:** Indiana Sheriffs' Association; Indiana Supreme Court Judicial Technology and Automation Project.

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